

BEFORE THE BOARD OF ADJUSTMENT OF SUSSEX COUNTY

IN RE: MARILYN FINN

Case No. 10802 – 2011

A hearing was held after due meeting in June 20, 2011. The Board members present were: Mr. Dale Callaway, Mr. Ronald McCabe, Mr. John Mills, Mr. Brent Workman, and Mr. Jeff Hudson.

Nature of the Proceedings

This is an application for a variance from the front and side yard setback requirements.

Finding of Facts

The Board found that the Applicant was seeking a variance from front and side yard setback requirements southwest of Front Street, approximately 1500' north of Road 39 (Prime Hook Road), Lot 77, Prime Hook Beach. The Applicant was requesting an 11.5' variance from the required 30' front yard setback and a 5' variance from the required 10' side yard setback for a proposed dwelling. After a hearing, the Board made the following findings of fact:

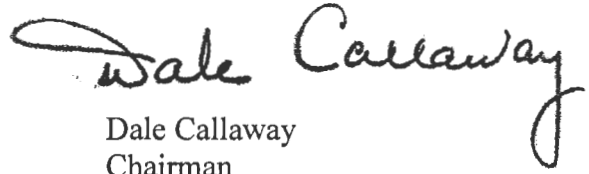
1. The Applicant purchased the property in 2005. Flooding has become an issue in recent years, and the Applicant wishes to raise the dwelling to meet flood zone requirements.
2. The property utilizes an existing mound septic system that covers a significant portion of the rear yard, making it difficult to raise the dwelling as planned.
3. The existing dwelling is on a concrete slab, and the Applicant has been encouraged by builders to rebuild rather than remodel or raise the existing dwelling.
4. There is also an existing driveway and shed on the property.
5. The Applicant believes the variance is necessary to enable reasonable use of the property, since flooding will eventually cause significant damage. The proposed dwelling will be approximately the same square footage as the existing one, and the Applicant does not believe it will alter the character of the neighborhood, which now includes numerous dwellings on pilings.
6. The existing dwelling is only 1.4' from the side yard property line, and the proposed dwelling will actually increase that space to 5'. The proposed dwelling will also be at the same setback as the existing dwelling for the front yard. The Applicant believes that she is requesting only the minimum necessary to afford relief.
7. Michael Gushue, the immediate neighbor, testified in opposition. He believes the dwelling can be built within required setbacks, and that the variance should not be based on the Applicant's wish to retain an existing driveway. Mr. Gushue also believed that the raised dwelling would cut off light to his lot and obstruct his view.
8. The Applicant pointed out that the proposed dwelling is one story with a loft that would meet County height limits. She indicated that the need for a front yard variance is due to an existing septic system, and which was something over which she had no control.
9. The Board initially tabled the application in order to review a plan as to where pilings would be located.
10. Upon further review, the Board determined that the application met the standards for granting a variance. Raising the dwelling appears to be necessary in order to comply with flood requirements, and the property would be within County established height limit. In addition, although the Applicant was requesting a 5' variance from the 10' side yard setback requirement, that 5' is actually greater than the existing 1.5' setback. Further, the front setback is dictated by the location of a septic system, which is required by DNREC and over which the County has no control.
11. The Board noted that numerous dwellings are currently on pilings in the area, and it is likely that more will follow in order to comply with flood regulations. As a result, the raised structure and variances will not alter the essential character of the neighborhood.

The Board granted the requested variances.

Decision of the Board

Upon motion duly made and seconded, the application was granted. The Board members voting in favor were: Mr. Callaway, Mr. McCabe, Mr. Mills, Mr. Workman, and Mr. Hudson; voting against – none.

**BOARD OF ADJUSTMENT
OF SUSSEX COUNTY**


Dale Callaway
Chairman

If the use is not established within one (1)
year from the date below the application
becomes void.

Date July 20, 2011.